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# IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

Report by Mr. Maurice Glélé-Ahanhanzo, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, submitted pursuant to Commission on Human Rights resolution 1994/64

CONTENTS

| | Paragraphs | Page |
|---|---|---|
| Introduction | 1 - 9 | 3 |
| I. ACTIVITIES CONDUCTED IN 1994 AND THOSE PLANNED FOR 1995 | 10 - 19 | 4 |
| A. Activities conducted in 1994 | 10 - 18 | 4 |
| B. Activities planned for 1995 | 19 | 6 |
| II. CONTEMPORARY MANIFESTATIONS OF RACISM AND RACIAL DISCRIMINATION AND INCIDENTS | 20 - 68 | 6 |
| A. Germany | 22 - 58 | 6 |
| B. Austria | 59 | 12 |

GE.95-10249 (E)

CONTENTS (continued)


| | | Paragraphs | Page |
|---|---|---|---|
| C. | Italy | 60 - 61 | 12 |
| D. | Netherlands | 62 - 64 | 13 |
| E. | Norway | 65 | 13 |
| F. | Sweden | 66 | 13 |
| G. | Switzerland | 67 | 14 |
| H. | Swaziland | 68 | 14 |
| III. | MEASURES TAKEN BY GOVERNMENTS | 69 - 115 | 14 |
| A. | Germany | 70 - 76 | 14 |
| B. | Australia | 77 - 79 | 16 |
| C. | Austria | 80 - 89 | 17 |
| D. | Colombia | 90 - 97 | 19 |
| E. | France | 98 - 103 | 22 |
| F. | Federal Republic of Yugoslavia | 104 - 110 | 23 |
| G. | Swaziland | 111 - 115 | 24 |
| IV. | ACTIVITIES CONDUCTED BY EUROPEAN BODIES | 116 - 119 | 25 |
| A. | Activities of the European Commission against Racism and Intolerance | 116 - 117 | 25 |
| B. | First European meeting of national institutions for the promotion and protection of human rights | 118 - 119 | 26 |
| V. | CONTRIBUTION OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION TO THE STRUGGLE AGAINST CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE | 120 - 129 | 28 |
| A. | Standard-setting activity in the struggle against all forms of discrimination | 121 - 124 | 28 |
| B. | Meetings | 125 - 129 | 29 |
| CONCLUSION | | 130 - 133 | 30 |

## INTRODUCTION

1. At its fiftieth session, in February 1994, the Commission on Human Rights considered the preliminary report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (E/CN.4/1994/66).

2. By its resolution 1994/64 of 9 March 1994, the Commission took note of that report and welcomed the Special Rapporteur's proposal concerning the organization of an interdisciplinary seminar on the problems of the theoretical aspects and specific manifestations of contemporary forms of racism, racial discrimination and xenophobia.

3. The Commission also made the mandate more explicit and precise by requesting the Special Rapporteur to examine incidents of contemporary forms of racism, racial discrimination, any form of discrimination against Blacks, Arabs and Muslims, xenophobia, negrophobia, anti-Semitism, and related intolerance, as well as governmental measures to overcome them, and to report on those matters to the Commission at its fifty-first session.

4. The Commission also requested the Special Rapporteur to have an exchange of views with the various relevant mechanisms and treaty bodies within the United Nations system, including the Committee on the Elimination of Racial Discrimination, in order to further enhance their effectiveness and mutual cooperation. In addition, it encouraged the Special Rapporteur, in close consultation with Governments, relevant organizations of the United Nations system, other intergovernmental organization and non-governmental organizations, to present further recommendations concerning human rights education with a view to preventing actions giving rise to racism and racial discrimination, xenophobia and related intolerance.

5. Lastly, the Commission requested the Secretary-General without further delay to provide the Special Rapporteur with all the necessary assistance in carrying out his mandate and enabling him to submit an interim report to the General Assembly at its forty-ninth session and a comprehensive report to the Commission at its fifty-first session.

6. It should also be noted that the Assistant Secretary-General for Human Rights, basing himself on the recommendations of the Vienna World Conference on Human Rights and the relevant resolutions of the Commission on Human Rights (1993/46 and 1994/45), sent a letter on 29 August 1994 to the Special Rapporteur, drawing his attention to the need to report regularly and systematically on available information on human rights violations affecting women.

7. Accordingly, this report has been prepared in response to the above-mentioned request of the Commission on Human Rights and takes account of the reminder from the Assistant Secretary-General for Human Rights concerning the particular situation of women.

8. The Special Rapporteur would like to specify that this report should be read in conjunction with the interim report to the General Assembly (A/49/677). He would therefore ask the members of the Commission to refer

to that document, which contains chapters on the working methods of the Special Rapporteur (chap. II), contemporary manifestations of racism and racial discrimination (chap. III), causes and vectors of racism, racial discrimination and xenophobia (chap. IV) and measures taken by Governments and action undertaken by civil society (chap. V), as well as conclusions and recommendations.

9. In the present document, the Special Rapporteur would like to give an account of his activities in 1994 and those planned for 1995. He would also like to report on a number of allegations of acts and practices of racism and racial discrimination and on measures taken by the Governments of Germany, Australia, Austria, Colombia, France and the Federal Republic of Yugoslavia, as well as by European bodies. The Special Rapporteur will also refer to the activities of the United Nations Educational, Scientific and Cultural Organization (UNESCO) aimed at combating racism and racial discrimination.

## I. ACTIVITIES CONDUCTED IN 1994 AND THOSE PLANNED FOR 1995

### A. Activities conducted in 1994

10. During the past year, the Special Rapporteur has essentially established contact with a number of Governments with a view to undertaking missions to their countries. Following preliminary consultations with representatives of the Permanent Missions of Germany and the United States, the Special Rapporteur wrote to the two Governments concerned through the Assistant Secretary-General for Human Rights (letters of 14 June 1994), proposing that he should visit each country. On 4 August 1994, the Assistant Secretary-General sent a similar letter to the Government of the United Kingdom of Great Britain and Northern Ireland. Lastly, on 13 September 1994, a request along the lines of those addressed to the aforementioned Governments was sent to the Government of Brazil. On 2 June 1994, the Special Rapporteur also had consultations with the Permanent Mission of France to explore the possibility of making a visit to that country.

11. As the Special Rapporteur already explained in his report to the General Assembly at its forty-ninth session (A/49/677, para. 46), basing himself on Commission on Human Rights resolutions 1993/20 and 1994/64 and Economic and Social Council decision 1993/258, field missions are useful in enabling the Special Rapporteur to familiarize himself with the actual situation in a particular country through access to first-hand information and discussions with the parties concerned, whether the Government or civil society. Such missions are in no case designed to be inquisitorial; rather, they can enable the measures taken by a Government to overcome racism and racial discrimination to be better known.

#### 1. Mission to the United States of America

12. On 15 August 1994, the Special Rapporteur was pleased to receive the agreement of the United States Government. He then visited Washington, New York, Los Angeles and Atlanta from 9 to 22 October and talked with representatives of the Government, representatives of non-governmental

organizations and city officials in Washington, New York and Atlanta. The report of that mission is available to the Commission in document E/CN.4/1995/78/Add.1.

### 2. Mission to the United Kingdom of Great Britain and Northern Ireland

13. By letter of 30 September, the United Kingdom Government informed the Special Rapporteur that it was agreeable to a visit by him during the period 5-16 December. When preparations for this mission had already been completed, the Centre for Human Rights had to advise the Special Rapporteur, on 29 November, that his mission could not take place. Between 29 November and 5 December, the Centre for Human Rights made several unsuccessful attempts to obtain funding.

14. On 6 December, the United Kingdom Government was informed that the mission had been postponed because of financial problems. The Special Rapporteur wishes to express his regrets to the United Kingdom Government and to note that an incident of this kind shows the urgency of making adequate human, material and financial resources available to him if the Commission wishes the mandate entrusted to him to be carried out efficiently.

15. The Special Rapporteur hopes that he will be given a further opportunity to visit the United Kingdom, bearing in mind the interest which the United Kingdom authorities and numerous institutions and organizations have already shown in such a mission and the disappointment caused by its postponement.

### 3. Mission to Germany

16. By note of 18 October 1994, the Government of Germany accepted the Special Rapporteur's offer to visit Germany and proposed that that mission should take place after 9 January 1995. Because of his prior commitments (including the mission to the United Kingdom, which unfortunately did not take place and the technical constraints facing the Centre for Human Rights during the proposed period - namely, the preparations for the fifty-first session of the Commission on Human Rights - the Special Rapporteur suggested that the mission to Germany should be postponed until mid-March 1995. The Special Rapporteur will therefore take advantage of his presence in Geneva to consider arrangements for that visit with the German authorities.

### 4. Mission to Brazil

17. By letter of 11 November 1994, the Government of Brazil expressed its intention to receive the Special Rapporteur in Brazil at a date to be agreed. Preparations for this mission will be initiated during the fifty-first session of the Commission after the Special Rapporteur has talked with the representatives of Brazil.

### 5. Mission to France

18. During a discussion with the Special Rapporteur in June 1994, the representatives of France expressed the wish that he should postpone his

mission until 1995 because of the schedules of a number of persons whom the Special Rapporteur was due to meet. The Special Rapporteur informed the French authorities that he would contact them again during 1995.

### B. Activities planned for 1995

19. The Special Rapporteur suggests to the Commission that he should organize his visits in the following manner, taking into account an element of geographical balance: he would visit Germany and subsequently Brazil, as already agreed with the authorities of those countries; if agreement is reached with the authorities of the United Kingdom of Great Britain and Northern Ireland and France, he would visit each of those countries in turn.

## II. CONTEMPORARY MANIFESTATIONS OF RACISM AND RACIAL DISCRIMINATION AND INCIDENTS

20. The Special Rapporteur received communications 1/ from four Turkish organizations describing numerous racist and xenophobic incidents which occurred in 1994 in the following European countries: Germany, Austria, Italy, Netherlands, Norway, Sweden and Switzerland. While most of the persons affected by these incidents were of Turkish origin, some were of African, Asian, Jewish and Yugoslav origin. The Special Rapporteur also received a communication from the Government of Swaziland.

21. An account of the facts, as brought to the Special Rapporteur's attention, is given below.

### A. Germany

Straubing (Bavaria), 1 January 1994

22. Ten German youths went on a destructive rampage in a home for foreign asylum-seekers about 2.30 a.m. It was reported that the attackers, aged between 18 and 23, forced their way into the building, damaging doors and furniture and pulling a telephone from the wall; three were arrested. None of the home's 100 residents was injured. It is alleged that the incident had racist motivations.

Dortmund, 3 January 1994

23. An arson attack resulted in fire in the basement of a residential building occupied mainly by Turkish families. The police investigation of the incident has ended. It is claimed that the attack was racially motivated.

Halle, 10 January 1994

24. Suspected neo-Nazi skinheads carved a swastika into the cheek of Elke J., a 17-year-old girl in a wheelchair, after she refused their order to shout Fascist slogans, "Gas the cripples" and "Foreigners out". It was reported by the police that three assailants attacked the victim with a knife after she came out from a public toilet for the handicapped. The victim, who

suffered a cut on her cheek measuring roughly 4 by 3 centimetres, was treated at a hospital and released. The girl and her parents were placed under police protection.

Ludwigshafen, 14 January 1994

25. An arson attack wounded 11 foreigners at an asylum shelter where 50 asylum-seekers lived. The fire was set on the ground floor with trash as tinder. Damage in the building was minimal. Three people were hospitalized. Eight others were treated at the scene for smoke inhalation. There is credible evidence that the attack had been carried out by right-wing radicals and was racially motivated.

Darmstadt, 18 February 1994

26. Ali Bayram, a 50-year-old man of Turkish origin who had been in Germany for 20 years and who was known as a very friendly and soft-spoken person, was shot by Reiner G., his German neighbour, who claimed that there was too much noise in the apartment. Reiner G. rang the doorbell of the Bayram family home at around 8 p.m. and fired six shots at Ali Bayram and his 12-year-old daughter Asli Bayram. Ali Bayram died and the daughter was severely injured. The victim's wife, Lütfifye Bayram, said that there had been a clear change in the landlord's attitude towards her family after the racially motivated Mölln arson incident in which three persons had lost their lives. She also said that they called the police immediately, but later found the phone had been disconnected, and that the police arrived at the scene some 10 minutes later. It is alleged that the shooting was a purely racist attack and that the police are intentionally portraying the incident as a mere dispute between neighbours, thus trying to cover up the real underlying factor.

Ludwigshafen, 14 March 1994

27. Kerim Sarper (Turkish citizen) came to Germany and assumed his function of religious officer at the Mevlana mosque in Ludwigshafen six years ago. As he was preparing to return to Turkey upon completion of his assignment, he was brutally attacked by five persons who beat him with baseball bats and stabbed him. Severely wounded, Kerim Sarper was hospitalized in critical condition. When his condition stabilized, he appealed to all to unite and befriend each other. It is alleged that the attack was racially motivated.

Stuttgart, 16 March 1994

28. In a heinous racist attack, a residential building, occupied mostly by foreigners, was set on fire during the night. Seven people died in the incident, including two children, an old woman and an old couple. The victims were burnt to such an extent that the identification process was extremely difficult. Nineteen other people were injured. Nebahat Say and her daughter Aylingüla Say (both of Turkish origin) also died in the arson attack. Nebahat Say was 27 years old and pregnant, and her daughter was only five years old. Their dead bodies were found in a final embrace. Medical reports indicated that their deaths were due to smoke inhalation. Nothing remarkable was detected around the building in the police check one hour before the incident. It is almost confirmed that this attack was of a racist nature.

Lübeck, 25 March 1994

29. There was an arson attack on a synagogue. Six Jews lived on the top floor of the building, but none of them was injured. It is alleged that the attack had been carried out for purely racial motives.

Stuttgart, 3 April 1994

30. A fire in a residential building caused the death of Turkish citizen Sükriye Dursun. Other Turkish citizens, including members of the same family, were injured in the fire.

Bielefeld, 20 April 1994

31. An arson attack was carried out on a hostel inhabited by 16 foreigners, of whom 15 were Turks. The building was damaged but fortunately there were no injuries. Six teenagers aged between 14 and 16 were caught trying to flee the scene after the incident and put under arrest. One of them told the police that they had perpetrated the attack on the occasion of Hitler's birthday and that their aim was "to exterminate foreigners".

Magdeburg, 12 May 1994 2/

32. An extreme rightist group of 40 people attacked five Africans. The Africans, together with two Turks who tried to help them, took shelter in a Turkish-owned restaurant. The assailants followed them. Two Turks and three Germans were wounded in the incident.

Ulm, 18 May 1994

33. A 20-year-old Turkish youth, Murat Yolcu, was mistreated and beaten by the German police. Doctors have submitted a report verifying this.

Siegburg, 21 May 1994

34. A pre-dawn arson attack on the Turkish-German kindergarten which had been inaugurated a week before resulted in serious damage totalling approximately DM 1 million. Given the timing of the attack, no one was on the premises. Police acknowledged that the fire was deliberately set, but despite the tangible indications showing that the attack was racially motivated, the police stated that they still had doubts as to whether this was the case. The mayor also precluded the possibility that racism was behind the attack and tried to portray it as the work of a lunatic.

Bebra, 27 May 1994

35. An arson attack struck against a supermarket owned by Ridvan Bilgin (Turkish origin) resulted in serious damage. It is alleged that the attack was carried out by racists.

Hamburg, 23 June 1994

36. A home for foreign asylum-seekers was set on fire during the night. The home had housed up to 185 people, but most had moved out because of renovations. The six occupants of the building escaped unhurt after fires broke out simultaneously in four separate places, which supports the suspicions that the attack was set purely with the aim of killing the residents of the buildings. Based on the available evidence, it is alleged that the attack was racially motivated.

Borken, June 1994

37. An arson attack was carried out in the attic of a three-storey residential building occupied by six Turkish families. The residents were not in the building at the time of the attack, which prevented a tragedy. The building was, however, severely damaged. The arson attack, acknowledged by police, is alleged to have been carried out by right-wing extremists and to have been racially motivated.

Berlin, 3 July 1994

38. The arson attack carried out on a travel agency owned by Haluk Pinarbasi and Senüz Cinar is alleged to be linked to racist motives.

Berlin, 23 July 1994

39. A gang of 22 neo-Nazis went on a rampage at the memorial to the Buchenwald concentration camp. The police reported that the skinheads yelled "Heil, Hitler" and threw stones at the barracks buildings. Several of the youths threatened to set a woman who works at the memorial on fire. The memorial, consisting of the few buildings remaining from the concentration camp, was being remodelled in preparation for next year's fiftieth anniversary of its liberation in the last weeks of the Second World War. Security at the memorial was reportedly strengthened early this year following instances in which neo-Nazis insulted Israeli visitors to the camp.

Freudenstadt, 30 July 1994

40. There was an attempted arson attack on the Turkish Social, Cultural and Sports Club in Horb. The perpetrators of the attack have not been identified, and nothing has been heard from the police concerning them.

Cologne, 31 July 1994

41. Cetin Apohan, a 20-year-old Turk living in Bremen, was clubbed to death with a baseball bat. He was later doused with gasoline and set on fire at a camp ground outside Cologne. The autopsy report indicated fractures of the head and various other parts of the body. Witnesses said they heard two shots and then people shouting "Burn the Turk". The Cologne Prosecutor, Reiner Gliss, stated that although the murder seemed to be related to racism, this could not be confirmed by the evidence at hand.

Sinzig, 31 July 1994

42. There was an arson attack on the house occupied by Veli Minas (45-years old) and his family (Turkish origin).

Waldshuttiengen, 31 July 1994

43. An arson attack on the Turkish-owned travel agency "Paradies Reisen" on the Swiss border resulted in serious damage. The owners were compensated for the damage. Nothing has been heard from the police about the results of the incident.

Berlin, 6 August 1994

44. There was an arson attack on the travel agency "Panda Reisebüro" owned by Mahir Turan (Turkish origin) around 3 a.m. It is alleged that the attack was carried out by right-wing extremists.

Essen, 7 August 1994

45. There was an arson attack on the Turkish travel agency "Enes" around 2.30 a.m. There are allegations that this incident, immediately following the arson attack on a Turkish travel agency in Berlin, was also carried out on racial grounds.

Stuttgart, 9 August 1994

46. An arson attack was carried out on a Turkish mosque and cultural centre in Sindelfingen around 2 a.m. No one was injured in the fire, which caused damage estimated at DM 300,000. The building was completely destroyed in the fire, which started in the entrance hall. The police, following the investigation at the scene, acknowledged that the incident was an arson attack. However, there were no statements concerning the possible motives behind the incident.

Singen, 11 August 1994

47. A Turkish prayer room was set on fire as a result of an arson attack. No one was hurt in the fire because it was started at night when the building was unoccupied. The building, however, was completely destroyed. The police have acknowledged that the incident was an arson attack, and have stated that they were investigating right-wing extremists.

Hamm, 15 August 1994

48. A petrol bomb was thrown inside a Turkish tea house. The fire was put out by four Turks in the tea house and, fortunately, only one person was injured.

Offenbach, 15 August 1994

49. There was an arson attack on "Grazer Stube", owned by the Turkish Genç family, around midnight. The inside of the bar was completely destroyed and there was damage estimated at DM 200,000. It is alleged that the incident was racially motivated.

Alsdorf, August 1994

50. There was an arson attack on the two-storey house of the Turkish Colak family. Cemal Colak (52 years old) had been working in Germany for 24 years. There are allegations that the house of the Colak family was burnt by racists.

Brandenburg, August 1994

51. Plainclothes soldiers held a demonstration during which they shouted racist and xenophobic slogans. This incident has been widely covered by the international media.

Böblingen, 2 September 1994

52. An arson attack during the night against the office of Turkish citizens Eser Güzel and Ali Güzel caused damage of DM 30,000.

Brandenburg, 21 September 1994

53. Two young Turkish men were mugged by three neo-Nazis and beaten with baseball bats. It is alleged that the assailants attacked the Turks on purely racial grounds.

Weiden, 21 September 1994

54. A pre-dawn arson attack was carried out on a residential building which belonged to the Seltmann Porcelain Factory, where approximately 100 Turkish people lived. The fact that two Molotov cocktails were thrown off a balcony indicates that the attack was aimed at homicide. Three neo-Nazis were arrested and charged with the crime by the police, but were later released on the grounds that "they only tried to play a joke". It was later decided, at the request of the examining magistrate, that the defendants, who had been involved in similar attacks in the past, should be detained until their trial.

Herford, 28 September 1994

55. Bukureje Haliti, a 23-year-old handicapped woman from the former Yugoslavia, and Navgim Haliti, her 11-year-old brother, were killed at around 4 a.m. in an arson attack on a refugee camp composed of container houses. Fireworks were used to set off two cans filled with petrol in the entrance to one of the 40 container homes. The container was a blackened hulk after the fire and another container was badly damaged. There were no other injuries, although 74 foreigners from the former Yugoslavia and Romania were inside the camp. A racist motive was ruled out by the Federal Prosecutor in

spite of the fact that there has been a surge recently in rightist violence directed against foreigners, Jews and other targets of Nazi ideology, including the handicapped.

Berlin, September 1994

56. Katom J. from Ghana was severely beaten and stabbed, and then thrown off a tram by six neo-Nazis while on the way to his home. He later stated that none of the passengers on the tram tried to help him while he was beaten almost to death. He suffered a fractured skull and one of his legs had to be amputated because of the possibility of gangrene.

Stokach, 17 October 1994

57. An arson attack was carried out on a building which had been turned over to the Turkish community 20 days before by the municipality. The building, previously owned by a factory, had been renovated by the Turkish community for use as a gathering place for Turks and Germans. The slogans, "Ausländer raus" and "Kanaken" painted on the outer walls of the building indicate that the attack had racist and xenophobic motives.

Worms, 7 December 1994

58. An arson attack was carried out against the Turkish Islamic Cultural Association. The building, which is owned by a Turkish citizen, was heavily damaged.

## B. Austria

Leobersdorf, 18 October 1994

59. There was an arson attack around 2 a.m. on the "Pizzeria Balfone" owned by the Turkish Sahnin family. The fire started in several places. The pizzeria was severely damaged after the fire and the estimated damage is stated to be over S 700,000. Taking into consideration the facts that the fire was started in several places and that two petrol cans were found by police inside the pizzeria, it is alleged that the attack was carried out on racial grounds.

## C. Italy

Rome, 7 January 1994

60. Two Pakistanis were beaten by a group of young people near the Fiumicino International Airport. It is alleged that the attacks were racially motivated.

Sardinia, August 1994

61. A Senegal citizen selling refreshments on the beach was beaten by a group of five young people from Rome. The assailants were aged between 20 and 27.

The witnesses stated that the assailants shouted, "We are burning all the niggers like yourself in Rome". The assailants were arrested, but were later released on bail.

## D. Netherlands

Rossmalen, 29 July 1994

62. A refugee woman from the former Yugoslavia was carjacked with her 2-year-old daughter. She was later found, with her nose cut off, in a Cologne parking lot, but her daughter was missing. It is alleged that the victims were attacked by racists.

Delfzjil, August 1994

63. Severe damage was caused in the Yunus Emre mosque as a result of an attack by neo-Nazis. Slogans such as "I love Adolf Hitler" and "Rudolph Hess", as well as carvings of swastikas, were traced on the inner walls of the mosque. It was reported that the mosque, which was used as a place of worship by Muslims from Turkey, Morocco and Suriname, had been burgled in the past. It is alleged that the incident was racially motivated as it followed two others in Staadskanaal and Meeden, in February and in July respectively.

Ostzaan, August 1994

64. Neo-Nazi Dutch teenagers beat Recep Okuyycu (Turkish origin) who witnessed the beating of an Israeli man by the same neo-Nazis and tried to help the victim at the Ostzaan Fair. The assailants had swastika tattoos on their arms and shouted fascist slogans.

## E. Norway

Bergen, July 1994

65. The Brazilian anthropologist Professor Carmen Junqueira and a Brazilian bank director, Nadim Thomé, were refused entry into the Maxim Pub, where they went with their Norwegian friend, Lasse Paust, on the grounds that they were intoxicated. They were grossly harassed by the two doormen at the entrance. When they went to the police to report the incident, it was confirmed that Junqueira and Thomé were not at all intoxicated. It is alleged that this humiliating incident is a manifestation of racist attitudes towards foreigners in Norway.

## F. Sweden

Stockholm, 2 April 1994

66. An arson attack was carried out on the Turkish-Swedish Democratic Youth Association around 1.30 a.m. which resulted in serious damage.

## G. Switzerland

Bülach, October 1994

67. There were arson attacks on two asylum shelters. The fires were extinguished with the efforts of the residents of the shelters themselves. There are allegations that the fires were started by racists.

## H. Swaziland

68. In its communication, the Government of Swaziland informed the Special Rapporteur that certain trade unions in the country complain of racial discrimination within the workplace. It is often alleged that certain Europeans/whites ill-treat black workers. At certain workplaces whites have better benefits than blacks. On localizing the post, such benefits are cut drastically, i.e. the salary is cut by half.

# III. MEASURES TAKEN BY GOVERNMENTS

69. In addition to the 30 Governments already mentioned in the report to the General Assembly (A/49/677, para. 41), the Special Rapporteur has received information from the Governments of the following countries: Germany, Australia, Austria, Colombia, France, Federal Republic of Yugoslavia and Swaziland. This information is reproduced or analysed in the following sections.

## A. Germany

70. Because of the limited time and space available, the Special Rapporteur was previously unable to give an appropriate account of the measures taken by the Government of Germany to prevent and punish racist and xenophobic violence in its territory. He therefore proposes to do so in the following paragraphs.

71. It can be seen from the communication of the Government of Germany that the highest German authorities, including the President of the Republic, Richard von Weizsäcker, and Chancellor Helmut Kohl have expressly condemned all acts of xenophobic violence, and that the Government has taken drastic measures to curb the actions of the extreme right. In the interests of more efficient cooperation between the various services engaged in the struggle against rightist extremism (the police, the judiciary, and the services for the protection of the Constitution), the Ministers of the Interior of the Länder and of the Federation decided, in late 1992, to set up an "information group to monitor and combat right-wing extremist, terrorist, and particularly xenophobic acts of violence" (IGR). This group is composed of representatives of the Procurator-General of the Federal Court of Justice, the Federal Office of Criminal Police and the Federal Office for the Protection of the Constitution, as well as representatives of the judiciary, the police and the services for the protection of the Constitution of the Länder. The IGR is responsible for devising and implementing - using all legal means at its disposal - enforcement measures targeted at the federal level, defining priorities, consolidating information collected by the various administrations and concentrating its action on certain areas of right-wing extremism and terrorism.

72. One of the first steps taken by the IGR, in February 1993, was the federal campaign against right-wing, extremist skinhead activities, since the IGR considered it essential to put a stop to the music common in skinhead circles, with lyrics that are punishable under the criminal law. These songs express a thinly disguised racism and advocate anti-Semitism, xenophobia and violence. Often concerts given by skinhead groups were accompanied or followed by violence, and the songs - also propagated through the various musical media - as well as the behaviour of skinhead groups at these concerts (cries of "Sieg Heil!" and salutes to Hitler) aroused the audience. In the IGR's view, simultaneous enforcement measures throughout Germany were necessary to achieve the desired effect. The so-called "Notenschlüssel" campaign was thus devised to counter producers and distributors of skinhead music.

73. The IGR is also keeping a very close watch on the dissemination in Germany of neo-Nazi propaganda material, particularly flags, insignia and arm-bands bearing a swastika, neo-Nazi and anti-Semitic literature, videos, posters and stickers, and the journal NS-Kampfruf, which is published in nine languages. In particular, the stickers with swastikas which can be found throughout Germany (they are plastered all over the place during the night) pave the way for xenophobia and violence. For years now, the German police have been trying to stem this tide of propaganda material and to locate the distribution services (isolated "cells"). Apart from the activities of the IGR, magazines, books and music are scrutinized with a view to detecting any right-wing extremist or neo-Nazi thinking. Where this exists, steps to ban the material concerned are initiated and criminal law measures are envisaged.

74. On the basis of information provided by the police, the Federal Minister of the Interior banned the Nationalistische Front (NF) on 27 November 1992, the Deutsche Alternative (DA) on 10 December 1992, and the Nationale Offensive (NO) on 22 December 1992, and ordered the immediate enforcement of these measures. In addition, the Minister of the Interior of the Land of Lower Saxony exercised his regional powers to ban the Deutsche Kameradschaftsbund Wilhelmshaven (DKB). All premises of these organizations and the apartments of many of their members were searched, and large quantities of documents, propaganda material and possessions were confiscated. Under the law, these organizations have been prohibited from engaging in any activity, under pain of criminal prosecution and enforcement measures.

75. The State has thus sent an unmistakeable message that it is no longer prepared to tolerate this permanent agitation, directed mainly against foreigners, which instils in part of the population a xenophobic attitude that incites it to commit violent acts. On 9 December 1992, the Federal Government lodged an initial request with the Federal Constitutional Court to deprive two recognized rightist extremists of their fundamental rights in accordance with article 18 of the Constitution. If this request is granted, the individuals concerned, for a length of time set by the Court, will be forbidden from publicly expressing their opinion on political issues, propagating their political views, participating in or organizing political meetings and being active within or on behalf of organizations with political aims. For as long as they are deprived of their fundamental rights, they are also deprived of their right to be elected.

76. The majority of the population supports the Government's policy. Various activities, particularly activities based on personal or private initiative, have already been undertaken by social groups. Particular mention may be made of displays of solidarity (chains of light), solidarity concerts, neighbourhood initiatives in favour of threatened foreigners and asylum-seekers, advertising favourable to foreigners and the use of xenophile propaganda material (badges, stickers, newspaper advertisements, television broadcasts and videos of solidarity concerts, and publicity on football shirts such as "My friend is a foreigner" and "Abroad, everyone is a foreigner"). Such initiatives have already been taken by trade unions and firms in the labour sector, as well as by football clubs, private individuals or musical groups.

## B. Australia

77. On 15 November 1994, the Government of Australia submitted to Parliament a new bill designed to punish incitement to racial hatred. The bill seeks to strike a balance between freedom of expression and protection of the national interest. The Racial Hatred Bill aims to close the gap in the legal protection available to the victims of extreme racist behaviour. The bill amends the Crimes Act 1914 to provide for three criminal offences and the Racial Discrimination Act 1975 to provide for a civil prohibition. In contrast to general criminal law, the criminal provisions under the Bill do not deal with physical violence and damage to property. Rather, the provisions centre on the precursors of actual violence, that is, the incitement of racial hatred and threats made to a person or persons or property because of race, colour or national or ethnic origin. The Bill provides a maximum penalty of two years' imprisonment for threatening to harm a person, while threatening to damage property and incitement to racial hatred carry a maximum penalty of one year. The Human Rights and Equal Opportunity Commission will conciliate civil cases.

78. According to the Australian Minister of Justice, Mr. Lavarch, addressing the Australian Parliament:

> "The Bill is about protection of groups and individuals from threats of violence and the incitement of racial hatred, which leads inevitably to violence.
>
> "Racism should be responded to by education and by confronting the expression of racist ideas. But legislation is not mutually exclusive of these responses. It is not a choice between legislation or education. Rather, it is, in the Government's view, a case of using both.
>
> "The Bill does not prohibit people from expressing ideas or having beliefs, no matter how unpopular the views may be to many other people. The law has no application to private conversations. In this Bill, free speech has been balanced against the rights of Australians to live free of fear and racial harassment."

79. The Racial Hatred Bill does not prohibit actions or words committed in good faith in the course of any statement, publication, discussion or debate for an academic, artistic or scientific purpose or any other purpose in the public interest.

## C. Austria

### 1. Legal measures

80. Austrian legislation includes, in particular, laws designed to ban Nazi and neo-Nazi parties and their activities. It also prohibits incitement to racial hatred, denial of the Jewish holocaust and the wearing of Nazi insignia. The laws in question, the details of which may be consulted at the secretariat of the Centre for Human Rights, are as follows:

(a) Constitutional Law of 8 May 1945, Government Law Gazette No. 13/1945, concerning the Prohibition of the Nazi Party (Prohibition Act), as amended by Federal Law Gazette No. 148/1992;

(b) Federal Constitutional Law of 3 July 1973, Federal Law Gazette No. 390/1973 for the Implementation of the International Convention on the Elimination of All Forms of Racial Discrimination;

(c) Administrative Proceedings (Introduction) Act, Federal Law Gazette No. 50/1991 as amended by Federal Law Gazette No. 143/1992;

(d) Penal Code: Section 283 ("Incitement to Hatred") and Section 117, paragraph 3;

(e) Federal Law of 5 April 1960, Federal Law Gazette No. 84/1960, Prohibiting Certain Badges ("Badges Act") as amended by Federal Law Gazette No. 117/1980.

In 1993, there were 18 convictions and 4 acquittals under the law on incitement to racial hatred.

### 2. Policies and other non-legal measures taken

81. Austrian public authorities engage in a wide range of activities to combat racism and intolerance. Some examples may be mentioned in the following paragraphs.

82. In the security services, which come under the jurisdiction of the Federal Ministry of the Interior, officers receive special training on these subjects and special units are assigned to combat extremism and terrorism. At the political level, the Ministry runs a number of information operations, addressed in particular to educational authorities, school faculties, pupils, counselling services for compulsory vocational schools, the youth departments of the Land governments, educational staff in homes for young people, and youth workers. Meetings with local and Land school boards are held at least

twice a year. The fight against interregional and international xenophobic and right-wing extremist activities is conducted in the appropriate international bodies as well as at the bilateral level.

83. In 1978, political education as a "general objective" (to be borne in mind by teachers of all subjects) was introduced into the syllabuses of all Austrian schools. (Political education is a specific compulsory subject in vocational schools of all types.) Political education is based on an understanding of democracy committed to the values of peace, freedom, equalit and justice with a strong emphasis on human rights.

84. In late December 1993, a Working Group on Xenophobia was set up in the Federal Ministry for Science and Research. Its task is to develop a strategi concept on this topic which is to serve as the basis for a focused research operation in the Ministry. The general consensus is that traditional theorie (referring to the "authoritarian personality", etc.) are not enough to get an adequate grip on the phenomenon of xenophobia. What is also stressed is the need to approach this set of problems from an interdisciplinary perspective. The problems to be addressed include xenophobia and the media, the socio-psychological causes of xenophobia, xenophobia in specific social groups, xenophobia in the context of traditional forms of racism, xenophobia and the Nazi past, and strategic use of that past.

85. A large number of private institutions, associations and citizens' grou offer contacts and information on social and psychological help available to individuals and groups. As far as assistance to refugees from the former Yugoslavia is concerned, the central significance of Caritas under Monsignor Helmut Schüller is universally recognized. Many parishes in all Austrian dioceses also provide help, primarily of a humanitarian nature. But it is only in a small number of matters that these services are cooperating. The setting up of a network of contacts throughout Austria would certainly be desirable.

### 3. Assessment of the effectiveness of these measures

86. For historically understandable reasons, very tough criminal sanctions (imprisonment for between five years and life) were introduced when the Prohibition Act was adopted in 1945. Offences under the Prohibition Act are heard by courts of assizes. Judicial practice over the following decades gradually showed that the very severity of the penalties made juries reluctant to convict in cases where they considered the accused to be guilty but did not think the sentence should be quite so harsh. The fight against "petty" offenders in particular was greatly hampered by these mandatory long prison terms. The reduction of the minimum sentence to one year now enables juries to respond to violations of the Prohibition Act with adequate sentences. The upper limits for sentencing remain unchanged, but should only be resorted to where required by the particularly dangerous character of the offender or of his acts.

87. The statistics on convictions under the Prohibition Act confirm the effectiveness of the 1992 amendment:

| | |
|---|---|
| 1988 | 1 conviction |
| 1989 | 6 convictions |
| 1990 | 1 conviction |
| 1991 | 0 convictions |
| 1992 | 5 convictions |
| 1993 | 17 convictions |
| 1994 (until 31 March) | 4 convictions |

88. The present legal position is unsatisfactory as far as right-wing radical printed matter and other materials are concerned. Under the Prohibition Act, only their dissemination with intent to revive Nazism, not their mere possession, is illegal. As a result, it appears also to be difficult to restrict imports of extreme rightist printed publications from abroad. Another problem is the growing use of modern electronic media in international communications between right-wing radical groups (computer disks, databanks etc.). Present legislation does not give the authorities enough powers to intervene.

89. As regards the information activities of the public security services in schools and other educational institutions, their results vary in different regions. The incidence of youth gangs also shows a regionally varying trend. How far the principle that political education should be an important concern in the teaching of all subjects in schools is followed in practical classroom work is hard to assess because, unlike traditional "subjects", the success of these efforts cannot be gauged by average examination results or the quality of essays submitted at final (matriculation) exams.

## D. Colombia

90. In its communication of 30 September 1994, the Government of Colombia states that Colombian society is composed of a large variety of ethnic groups and cultures. The Constitution of Colombia, adopted in 1991 by a democratically elected Constituent National Assembly, takes note of this fact and provides the country with the necessary tools to protect ethnic, cultural, religious and linguistic diversity and to eliminate any form of discrimination (art. 7).

91. Article 13 of the Constitution stipulates that all persons are equal before the law and enjoy equal treatment and protection on the part of the authorities. This provision prohibits any form of discrimination based on sex, race, national or family origin, language, religion or political or philosophical opinion. Furthermore, it specifies that the State "shall create conditions to make equality genuine and effective and adopt measures in favour of categories of persons who are discriminated against or marginalized".

92. According to the Constitution, the struggle against all forms of discrimination must focus, in particular, on the following elements:

(a) Efforts to achieve greater recognition and integration of the socio-cultural features specific to the various ethnic minority groups;

(b) Culture in its various forms is the basis of nationality. Article 70 of the Constitution provides: "The State recognizes the equality and dignity of all cultures coexisting in the country. It shall encourage research, science and development, and dissemination of the nation's cultural values";

(c) The guarantee of non-discrimination is also reflected in the freedom of every individual, without any distinction, to develop his personality as he deems fit. The right to personal independence is provided for in article 16, in the context of the concept of the right to free development of the personality;

(d) Similar importance is given, in article 18 of the Constitution, to recognition of freedom of conscience. In addition, article 20 lays down the right to freedom of expression and freedom to disseminate opinions, a safeguard that is fundamental for the protection of cultural pluralism;

(e) Guarantees for foreigners are established by article 100, which stipulates: "Foreigners in Colombia shall enjoy the same civil rights as those granted to Colombians. Nevertheless, for reasons related to public order, the law may impose special conditions on the exercise of certain civil rights granted to foreigners or deny them. Similarly, foreigners in the territory of the Republic benefit from the guarantees accorded to nationals, subject to any restrictions provided for by the Constitution or the law. Political rights are reserved for nationals, but the law may grant foreigners residing in Colombia the right to vote in municipal or district elections and referenda";

(f) Protection of linguistic traditions is established by article 10, which stipulates that "education shall be bilingual in communities with their own linguistic traditions".

93. Within the political framework thus laid down by the Constitution, there are various laws and governmental measures, among which particular mention should be made of those designed to ensure respect for the traditions and economic development of the ethnic minority groups living in the country. In this connection, there follows an analysis of the provisions relating to the improvement of the living conditions of the black communities, on the one hand, and those regulating the right of the indigenous communities to self-government according to their own customs.

94. Under the provisions of transitional article 55 of the new Constitution, which provides for the adoption of a law recognizing the collective ownership of the black communities of uncultivated land in the territory where they live, the Government conducted consultations resulting in the establishment of a national commission and various regional consultative commissions which submitted to the Congress of the Republic a bill that, in 1993, became Act No. 70. This Act establishes a very elaborate legislative framework for improving the living conditions of the black communities. Among its most important provisions, particular emphasis should be placed on the following:

(a) The establishment of a special constituency which will enable the black communities to have a minimum of two seats in the Congress of the Republic;

(b) The right of collective ownership for communities occupying uncultivated land in rural areas adjoining Pacific basin watercourses;

(c) Rights relating to subsoil resources;

(d) The right to an education consistent with the needs and cultural aspirations of these communities;

(e) The participation of the black communities in the basic machinery for defining social policy, such as the territorial planning boards (Consejos Territoriales de Planeación) and the executive boards of the regional autonomous assemblies (Consejos Directivos de las Corporaciones Autónomas Regionales); etc.

95. In accordance with the provisions of transitional article 56 of the Constitution, Decrees Nos. 1088 and 1809 of 1993 were adopted, regulating the right of indigenous communities to self-government according to their own customs, as proclaimed by article 330 of the Constitution. Article 330 provides as follows:

> "In accordance with the Constitution and the laws, the indigenous territories shall be governed by councils constituted and regulated according to the customs of the communities they represent and performing the following functions:
>
> 1. Ensuring the implementation of laws and regulations relating to land use and the settlement of the territories concerned;
>
> 2. Devising economic and social development policies, plans and programmes for their territory, in unison with the National Development Plan;
>
> 3. Encouraging and ensuring the proper use of public investment in their territory;
>
> 4. Raising revenue and distributing resources;
>
> 5. Watching over the conservation of natural resources;
>
> 6. Coordinating programmes and projects implemented by the various communities in their territory;
>
> 7. Cooperating in the maintenance of public order in their territory, in accordance with the instructions and decisions of the national Government;

8. Representing the territories vis-à-vis the national Government and other entities of which they form part; and

9. Discharging the functions provided by the Constitution and the law.

The exploitation of natural resources in the indigenous territories shall not be to the detriment of the cultural, social and economic integrity of the indigenous communities. The Government shall encourage representatives of the communities concerned to participate in the adoption of decisions regarding such exploitation."

96. Article 246 of the Constitution, for its part, grants the indigenous communities jurisdictional capacity:

"The authorities of the indigenous peoples may exercise jurisdictional functions in their territory in accordance with their own rules and procedures, provided that they are not contrary to the Constitution and the laws of the Republic. The law shall establish how this special jurisdiction must be coordinated with the national judicial system."

97. Article 171 of the Constitution provides for the establishment of a special constituency for the election of two senators by the indigenous communities. The persons elected must have exercised traditional authority in their respective community.

## E. France

98. France has a variety of laws and regulations for the punishment of crimes and offences inspired by racism. These measures are designed, in particular, to punish acts of violence deriving from racism and xenophobia, the production and dissemination of racist propaganda material, and incitement to racism and xenophobia. They also punish refusal to provide goods or services, hinderance of the normal exercise of economic activity, refusal to take a person into employment or the fact of penalizing or dismissing him, or the fact of basing the supply of goods or services or an offer of employment on religious, ethnic, national or religious discrimination.

99. By way of example, the Rapporteur would like to mention below a number of important provisions of this legislation whose innovative aspects may inspire other States.

100. Article 225-18 of the new French Penal Code, which entered into force on 1 March 1994, imposes imprisonment or a fine for the violation or desecration of tombs, graves or monuments and an attack on the integrity of corpses, when such offences have been committed for racist reasons. This measure provides a means of combating the desecrations of Jewish graves and monuments which occurred in great numbers in France between 1992 and 1993.

101. Article 24 (5) of the Freedom of the Press Act of 29 July 1881, as amended, punishes provocation to racial discrimination, hatred or violence, while article 24 bis of the same Act punishes those who, by written, oral or visual means, contest the existence of one or more crimes against humanity.

102. With regard to the activities of associations engaging in racist activities, the legislature has provided for the possibility of disbanding such groups by virtue of Act No. 72-545 of 19 July 1972. The President of the Republic may also, by decree issued in the Council of Ministers, decide on the disbandment of associations or groups guilty of incitement to racial or ethnic discrimination, hatred or violence.

103. With regard to control of immigration and reception and residence of foreigners in France, the Special Rapporteur fears that some provisions of the Act of 24 August 1993 may militate against the right of family reunion. In his view, the fact that the competent administrative authority pronounces for or against family reunion following a procedure that involves consulting the mayor of the foreigner's place of residence about the family's resources and housing may lead to arbitrary decisions.

## F. Federal Republic of Yugoslavia

104. The Constitution of the Federal Republic of Yugoslavia guarantees the equality of people and citizens irrespective of their national origin, race, sex, language, religious, political or other belief, education, social origin, financial standing and personal property. The Constitution and laws of the federal units, Serbia and Montenegro, provide the same guarantees. The problem of racial discrimination and racism in their classic forms does not exist in Yugoslavia, so that there is no need for the country to adopt separate programmes to combat racial discrimination and racism.

105. However, as a multinational community, the question of a harmonious coexistence of members of various nations, national minorities and ethnic groups is one of the major factors of the existence and development of the Federal Republic of Yugoslavia. Different nationalities, ethnic communities and languages, as well as different religions and cultures, have always provided richness to a community, but have also presented a difficulty in ensuring the harmony necessary for the existence of a community as a whole.

106. As in other States in which various national groups live, Yugoslavia also has problems deriving from its population structure: they include incitement to national and religious hatred and intolerance, various forms of discrimination and intolerance and the violation of equality on national grounds and the derision of peoples and national minorities.

107. In its federal criminal legislation, the Federal Republic of Yugoslavia has criminalized the following criminal acts: incitement to national, racial and religious hatred, cleavage or intolerance (article 134 of the Criminal Code); criminal act of genocide (article 141 of the Criminal Code); destruction of cultural and historical monuments (article 151 of the Criminal Code); incitement to racial and other discrimination (article 154 of the Criminal Code); violation of equality in employment (article 162 of the Criminal Code); violation of the equality of citizens (article 186), etc.

108. Incitement to, or fanning of, national, racial or religious hatred, cleavage or intolerance among peoples and national minorities living in Yugoslavia is punishable with one to five years in prison. The commission of this criminal act by the use of coercion, ill-treatment, endangering of

security, derision of national, ethnic or religious symbols, destruction of items belonging to other persons, desecration of monuments or graveyards is punishable with one to 10 years in prison.

109. The Constitution of the Federal Republic of Yugoslavia provides detailed guarantees in connection with the status of national minorities living in the Republic. It recognizes and guarantees the rights of national minorities to preserve, develop and express their ethnic, cultural, linguistic and other characteristics and to use their national symbols in accordance with international law. National minorities in Yugoslavia enjoy the freedom of expression of their national belonging and culture and the right to use their language and alphabet; they have the right to education and public information in their own languages. They also have the right to establish their separate cultural organizations or associations. Separate rights guaranteed to members of national minorities by the Constitution are regulated by law in greater detail. The federal law on minority rights is in preparation in the Republic.

110. In its communication of 18 November 1994, the Government of the Federal Republic of Yugoslavia further stated the following:

> "The Special Rapporteur is aware of the fact that a vicious media and propaganda campaign was launched against the Federal Republic of Yugoslavia and the Serb people in the wake of the events in the former Yugoslavia caused by secession which culminated in the one-sided condemnation of the Federal Republic and Serbs for these events. A campaign has resulted in discrimination against the Serb and Montenegrin peoples and the international isolation of the Federal Republic of Yugoslavia.
>
> "The media campaign and the sanctions against the Federal Republic of Yugoslavia have also had a negative effect on the status of Yugoslav migrant workers in the West European and some Islamic countries. The Government has on several occasions drawn the attention of the United Nations Secretary-General, the Centre for Human Rights and other United Nations bodies to the discrimination against Serb children in some West European countries in the field of education, particularly the prohibition of instruction in their mother tongue. An example of discrimination and racism has been the recent publication of secondary school history textbooks in some Western countries with insulting texts on the Serb people accusing it for the war in the former Yugoslavia, imputing to it the idea of the so-called 'Greater Serbia', and making it responsible for ethnic cleansing and war crimes."

## G. Swaziland

111. On 20 October 1994, the Government of Swaziland informed the Special Rapporteur of the following measures taken to overcome racial discrimination.

112. In 1962, the Race Relations Act was enacted to prevent discrimination by any person against any other group or group of persons based solely on race or colour. The law requires a complainant to report to the District

Commissioner/Regional Administrator. Such a complaint has to be in writing and should be made within seven days of the alleged discriminatory act. The District Commissioner/Regional Administrator shall call all parties to a meeting in an effort to promote reconciliation. If reconciliation fails, the District Commissioner/Regional Administrator will issue a certificate stating the details of the complaints and that reconciliation has failed. The complainant can then take the certificate to a magistrate court for deliberation. The District Commissioner/Regional Administrator has to submit to the court a full record of the reconciliation proceedings. The court will then consider the record and hear further evidence and make an order as per evidence adduced.

113. An Employment Act was enacted in 1980 to eradicate discrimination in the workplace. This act clearly states, at section 29:

> "No employer shall, in any contract of employment between himself and an employee discriminate against any person or between employees on grounds of race, colour, religion, marital status, sex, national origin, tribal or clan extraction, political affiliation or social status."

114. The Swaziland Citizenship Act, 1992 was enacted to take care of non-ethnic Swazis. The 1982 Act reads as follows:

> "Natural born citizens
>
> 4. (1) A person born, whether before or after the commencement of this Act and whether in or outside Swaziland is a citizen of Swaziland if, according to customary law, he is by birth a member of a Swazi community subsisting within the Kingdom of Swaziland."

115. In the new Act, it is stated that:

> "Natural born citizens
>
> 4. (i) A person born, whether before or after the commencement of this Act whether in or outside of Swaziland, is a citizen of Swaziland if, by birth he is a descendant of an ancestor who is a citizen of Swaziland."

This has put all Swazis on an equal footing.

## IV. ACTIVITIES CONDUCTED BY EUROPEAN BODIES

### A. Activities of the European Commission against Racism and Intolerance

116. The Council of Europe has also informed the Special Rapporteur of its activities designed to check the rise of racism and xenophobia in Europe. In June 1994, further to the Vienna Summit of October 1993, the Council of Europe set up a Commission against Racism and Intolerance (see the Vienna Declaration of 9 October 1993, annex III). The Commission's mandate is as follows:

To review legislation, policies and other measures adopted by member States with the aim of combating racism, xenophobia, anti-Semitism and intolerance, as well as their effectiveness;

To promote activities in this field at the local, national and European levels;

To formulate general policy recommendations for member States;

To study international legal instruments applicable in this area, with a view to strengthening them if necessary.

117. At a meeting of the Legal Working Group of the European Commission against Racism and Intolerance held at Strasbourg on 11 and 12 October 1994, the possibility of strengthening the non-discrimination clause of the European Convention on Human Rights through a possible additional protocol was considered. 3/ The Working Group noted that article 14 of the European Convention on Human Rights contains a right to protection against discrimination solely in respect of the enjoyment of the rights and freedoms recognized in the Convention, but does not contain a general non-discrimination clause. The Working Group also considered a preliminary draft framework convention against racism submitted by the Government of Turkey. Discussions on these two questions will be continued within the European Commission against Racism and Intolerance, on the basis of working papers prepared by its Legal Working Group.

### B. First European meeting of national institutions for the promotion and protection of human rights

118. The first European meeting of national institutions for the promotion and protection of human rights was held at Strasbourg, France, from 7 to 9 November 1994; this meeting, organized by the French National Consultative Commission on Human Rights in cooperation with the sub-commission on human rights of the Parliamentary Assembly of the Council of Europe, had as its theme "The struggle against racism and xenophobia, priorities and means of European harmonization". It provided an opportunity for the participants to diagnose manifestations of racism and intolerance in Europe; to identify appropriate measures of prevention and punishment in the struggle against racism and xenophobia; and to envisage the strengthening of cooperation machinery in this area.

119. Following their deliberations, the participants adopted the following recommendations for the consideration of the United Nations and the member States of the Council of Europe:

"Urge the United Nations to establish a standing international criminal court which would, in particular, be competent to try the crime of genocide and crimes against humanity;

Recommend that States should ratify the International Convention on the Elimination of All Forms of Racial Discrimination and ensure full compliance with its provisions, which implies in particular acceptance of

the individual communications procedure provided for in article 14 of the Convention and withdrawal of reservations limiting the scope of the Convention which may have been formulated by States;

Remind the member States of the Council of Europe of the great importance of drawing up a protocol revising article 14 of the European Convention on Human Rights so as to achieve full recognition of the principle of non-discrimination in the European order;

Emphasize the need to facilitate access to naturalization by foreigners and stateless persons and to fully implement the Convention of the Council of Europe on the participation of foreigners in public life at the local level;

Express the hope that national institutions for the protection and promotion of human rights will contribute actively to the struggle against racism and xenophobia, if necessary extending their internal jurisdiction to these matters;

Advocate the consolidation of statistics and information at the European level, according to homogeneous structures and references permitting a comparative assessment of racist actions and phenomena, both in time and in space;

Express the hope that periodic European surveys will be conducted on a broad scale, enabling the evolution of public opinion to be better grasped;

Encourage a pooling of existing documentation, particularly through the establishment of data banks on legislation and jurisprudence related to action to combat racism and xenophobia;

Suggest that national institutions should be specifically empowered to prosecute racist offences both by the public authorities and in relations between private individuals;

Recommend that national institutions should take the initiative, in consultation with the professional groups concerned, of drawing up codes of good conduct concerning non-discrimination in the public services and in private relationships;

Recommend that States should exercise the utmost vigilance with regard to gaps in European harmonization which lend themselves to delocalizations and transboundary activities circumventing national legislation against racism and to revisionism;

Call for a study of the use of new technologies (video games, computer networks) for the propagation of racial hatred and the urgent proposal of a set of internal and international measures to end such abuses;

Appeal to democratic forces to be alert to the risks of any electoral, parliamentary or governmental alliance with political forces whose programme or activities are based on racism and xenophobia;

Emphasize the importance of positive measures, both at the national and local levels, to combat all forms of exclusion and promote full equality of rights and opportunities;

Wish to contribute actively to the youth campaign launched by the Council of Europe and advocate full-fledged training in European citizenship in respect for universal values." 4/

## V. CONTRIBUTION OF THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION TO THE STRUGGLE AGAINST CONTEMPORARY FORMS OF RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE

120. In approving the programme and budget of UNESCO for 1994-1995, the General Conference defined a number of priorities which are along the same lines as Commission on Human Rights resolution 1994/64 of 9 March 1994. Under the subprogramme "Struggle against all forms of discrimination", it is stated that "To face the new wave of racism, xenophobia, anti-Semitism and other forms of discrimination, special efforts will be made, on the one hand, to widely disseminate the content of the international standard-setting instruments against discrimination and, on the other hand, to identify and analyse the sources, forms and expressions of discrimination in contemporary societies".

### A. Standard-setting activity in the struggle against all forms of discrimination

121. A series of brochures will be published on international instruments against discrimination and racism, particularly the International Convention on the Elimination of All Forms of Racial Discrimination of 21 December 1965, the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979, and the Convention against Discrimination in Education of 14 December 1960. Such instruments will be given broad dissemination, inter alia, in languages other than UNESCO official languages.

122. A detailed document on the protection and promotion of the cultural rights of persons belonging to minorities was prepared and submitted to the one hundred and forty-fourth session of the Executive Board. By decision 4.4.1., the Executive Board took note of the document and called upon the Director-General to continue to carry out the activities planned in that area for 1994-1995.

123. The urgent need to find solutions for the problems of minorities is coming to be more and more widely recognized. Access to information at the international level is needed to enhance action in this area. The Division of Human Rights, Peace and Democracy has prepared a compilation of various legislative texts concerning persons belonging to minorities, based on the positive replies sent by 47 countries members and non-members of UNESCO (Australia, Austria, Bangladesh, Belarus, Belgium, Bulgaria, Canada, Colombia,

Costa Rica, Croatia, Denmark, Fiji, Finland, Germany, Greece, Guatemala, Guyana, Holy See, Hungary, Iran, Italy, Japan, Jordan, Lebanon, Malaysia, Mauritius, Mexico, Myanmar, Namibia, Netherlands, Norway, Pakistan, Paraguay, Philippines, Romania, Rwanda, Slovakia, Spain, Sri Lanka, Switzerland, Trinidad and Tobago, Turkey, Ukraine, United Arab Emirates, United Kingdom, Venezuela, Yugoslavia). Two countries, namely Egypt and Saudi Arabia, replied negatively.

124. Also in this connection, the Director-General of UNESCO, will submit to the General Conference, at its twenty-eighth session in 1995, his fifth overall report on the world situation in areas covered by the Declaration on Race and Racial Prejudice, adopted by the General Conference at its twentieth session, on 27 November 1978. In preparing this report, he will be called upon to ask the UNESCO member States to transmit to him all necessary information on measures which they have taken to give effect to the principles proclaimed by the Declaration. This information will be available for consultation at UNESCO headquarters in late 1995.

## B. Meetings

125. UNESCO, in cooperation with the Marangopoulos Foundation for Human Rights, has organized at Olympia, Greece, from 13 to 14 May 1994, an International Workshop on New Forms of Discrimination. Migrants, Refugees, Minorities. The workshop gathered together experts from 12 countries, representatives of leading intergovernmental organizations active in prevention of discrimination, including representatives of the United Nations High Commissioner for Refugees and the Council of Europe, as well as representatives of NGOs.

126. On the first item, discrimination against migrants, seven keynote speakers presented reports. Particular attention was paid to the origins of the migratory impulse, to the action of the United Nations as well as to trends in attitudes of States towards migration. The second item, dealing with refugees, was devoted mainly to a discussion on international refugee law and the status of internally displaced persons, on the criteria for determining "safe countries" and on the role of intergovernmental and non-governmental organizations in the protection of refugees.

127. The meeting gave particular importance to the third item, the problems of prevention of discrimination against minorities and protection of their rights in a comprehensive manner. It was stressed in particular that implementation of the rights of minorities is closely linked with the questions of stability and security and that particular efforts are needed to further consolidate international standards concerning the rights of persons belonging to minorities. The documents of the meeting, including all the reports presented by the participants, will be published (probably in June 1995) with the financial assistance of UNESCO.

128. Concerning the area covered by Commission on Human Rights resolution 1994/64, reference may usefully be made to the forty-fourth session of the International Conference on Education, held at Geneva from 3 to 8 October 1994. In the Declaration adopted by the Conference, the Ministers of Education declared themselves to be "deeply concerned by the manifestations

of violence, racism, xenophobia, aggressive nationalism and violations of human rights, by religious intolerance, by the upsurge of terrorism in all its forms and manifestations and by the growing gap separating wealthy countries from poor countries, phenomena which threaten the consolidation of peace and democracy both nationally and internationally and which are all obstacles to development". The Ministers further declared their determination to "give a major priority in education to children and young people, who are particularly vulnerable to incitements to intolerance, racism and xenophobia".

129. Bearing in mind the scale of the phenomenon of contemporary international migrations of populations and their consequences, UNESCO, in cooperation with the German Committee for UNESCO and the Turkish Studies Centre at Essen, Germany, organized an international workshop on the subject "migrants in the European Union: between integration and xenophobia", held at Bonn on 14 and 15 November 1994. This workshop was attended by experts in the subject from Belgium, Germany, the Netherlands, Sweden and Turkey, as well as observers for intergovernmental and non-governmental organizations. A number of topics discussed at this meeting are in line with the content of Commission on Human Rights resolution 1994/64 and are worth citing:

(a) Obstacles to integration: discrimination against migrants in Europe. The example of the labour market.

(b) Unity in diversity: theoretical and actual situation regarding integration in the light of racist tendencies directed against foreign migrants in Europe and their reflection in political life.

(c) The extreme right movement in Europe, as seen from the perspective of the Jewish community.

(d) Recent analyses of the reasons for the development of xenophobia and the extreme right movement in the European Union.

(e) Perception of migratory movements in the country of origin.

(f) Approaches to integration and xenophobic tendencies in Europe, as seen by the migrants.

(g) Proposals for action, particularly as regards the media and education.

## CONCLUSION

130. The information gathered shows that, both at the national, regional and international levels, there has been a mobilization of Governments and competent organizations and institutions against the rise of racism, racial discrimination, xenophobia and related intolerance. The Special Rapporteur can only welcome this trend and encourage all the individuals and bodies concerned to keep up their efforts and to redouble their vigilance so as to frustrate racist and xenophobic acts and practices, which often parade as nationalism and national or continental preference.

131. The Special Rapporteur hopes that strict measures will be taken against individuals and organizations engaging in racist attacks and endangering the life or violating the physical integrity of foreigners, refugees or persons belonging to ethnic minorities, so as to put an end to racist and xenophobic violence in 1995.

132. The Special Rapporteur supports the measures taken by the Government of Germany to bring racist and xenophobic violence under control, eliminate racist propaganda and ban the activities of neo-Nazi organizations and the skinhead movement.

133. The Special Rapporteur also welcomes the efforts made by the Government of Colombia to allow the black communities access to collective ownership of the lands they occupy and to ensure the political representation of those communities in State bodies. He also expresses satisfaction at the efforts made on behalf of the indigenous communities.

## Notes

1/ Communication of 21 December 1994 from Baden Türk Koordinasyou Kurulu; communication of 24 December 1994 from Hessen Türk Koordinasyou Kurulu; communication of 29 December 1994 from Turkish-German Friendship; and communication of 12 December 1994 from Türk Dernerkleri Koordinasyon Kurulu.

2/ This incident is also mentioned in para. 65 of the interim report to the General Assembly at its forty-ninth session (A/49/677).

3/ Council of Europe, report of the Legal Working Group of the European Commission against Racism and Intolerance, CRI-GT-JUR (94) 10.

4/ Extract from resolution No. 1, report on the first European meeting of national institutions for the promotion and protection of human rights, Strasbourg, Palais de l'Europe, 7-9 November 1994.

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